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## Costs Decision

Site visit made on 6 July 2022

**by Paul Martinson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 July 2022**

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### **Costs application in relation to Appeal Ref: APP/N4205/W/22/3291155 The Courts Yard, Boot Lane, Bolton BL1 5SS**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr J Court for a full award of costs against Bolton Metropolitan Borough Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the change of use of existing stable block to 1no dwelling.
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### **Decision**

1. The application for a full award of costs is refused.

### **Reasons**

2. Paragraph 49 of the Planning Practice Guidance (PPG) makes clear that local planning authorities are at risk of an award of costs if they prevent or delay development that should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The PPG<sup>1</sup> also states that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period.
4. The applicant's case for a full award of costs references the above elements of the PPG. Their principal concern is in relation to the time taken to determine the application which had been with the Council for around eleven months on submission of the appeal. They also raise concerns over the lack of communication with the Council during the application. The applicant states that the last communication with the Council was an email dated 7 October 2021 which stated that the Officer was recommending approval. It is understood the applicant received no further communication prior to submitting the appeal despite requesting an update on 9 December 2021.
5. From the evidence before me, the Council made contact with the applicant on at least two occasions. Once was the instance above and another was a query

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<sup>1</sup> Paragraph: 048 Reference ID: 16-048-20140306

in March 2021 regarding the site access. Furthermore, in the applicant's response to the Council's rebuttal, it states *'the remainder of my communications with the then planning officer have been an attempt to establish what progress was being made in the determination of the application'*. This alludes to further contact, although I accept that this is likely to have been before 7 October 2021 when contact ceased.

6. I have not been provided with specific evidence of the communications referred to above and, although it may have been limited, it is clear to me that there was communication between the Council and the applicant's agent during the time of the application. Given my conclusions set out in my decision I am not satisfied that better communication with the applicant would have enabled the appeal to be avoided altogether.
7. Notwithstanding the above, there is no statutory duty on the Council to communicate with an applicant during the time it is under consideration. Advising the applicant that the application would be recommended for approval before proceeding to later issue a refusal is certainly unfortunate, but a different officer is entitled to come to a different view.
8. The Council states that the application has taken longer in part due to it being submitted *'at the height of the Covid-19 Pandemic'* which I accept will inevitably have affected workloads and decision times. It also states that part of the delay was due to investigations required as a result of the lack of supporting information in the application. Given the complexity of the case, I accept that this may have also contributed to some of the delay, and I would note in this regard that the onus is principally on an applicant to provide appropriate information in support of their proposal<sup>2</sup>.
9. Whilst the delay in determining the application is regrettable, it is nonetheless apparent that there was at least some contact during the application process. I also note from the PPG<sup>3</sup> that cost awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission. Furthermore, I have not been directed to any unnecessary or wasted cost arising from the delay or lack of communication.

## Conclusion

10. Taking all of the above into account, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Consequently, no award of costs is justified.

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<sup>2</sup> section 62(3) of the Town and Country Planning Act 1990 as amended

<sup>3</sup> Paragraph: 032 Reference ID: 16-032-20140306